

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
5:07-HC-2072-D

UNITED STATES OF AMERICA,)	
)	
Petitioner,)	
)	
v.)	ORDER
)	
JOSEPH FRANK,)	
)	
Respondent.)	

On April 13, 2007, the Bureau of Prisons certified respondent Joseph Frank (“Frank” or “respondent”) as a sexually dangerous person pursuant to 18 U.S.C. § 4248 [D.E. 1]. On November 16, 2011, the parties filed a joint Notice of Concession and Voluntary Entry Into Civil Commitment [D.E. 73] and a Joint Proposal for Acceptance of Motion for Commitment [D.E. 75]. This court referred the matter to United States Magistrate Judge James E. Gates for hearing pursuant to 18 U.S.C. §§ 4247(d) and 4248. On November 18, 2011, with consent of the parties [D.E. 78] and based on the parties’ Stipulation of Facts [D.E. 79]¹, Judge Gates held a hearing wherein he questioned respondent, respondent’s counsel, and counsel for the government.

Following the hearing, Judge Gates issued a Memorandum and Recommendation (“M&R”) [D.E. 80], determining that Frank is fully competent to consent to commitment under 18 U.S.C. § 4248; he is aware of the nature of commitment under 18 U.S.C. § 4248 and the consequences thereof; he knowingly and voluntarily consents to commitment under 18 U.S.C. § 4248, for which there exists an independent basis in fact containing each of the essential elements for commitment

¹The parties initially filed the Stipulation of Facts as Docket Entry 74, but it was unsigned by Frank. Frank signed a copy of the Stipulation of Facts in open court on November 18, 2011, and the signed copy has been filed as Docket Entry 79.

under 18 U.S.C. § 4248; and he is a sexually dangerous person within the meaning of 18 U.S.C. § 4247(a)(5) and (6). Based on these findings, Judge Gates recommended that Frank be committed to the custody of the United States Attorney General pursuant to 18 U.S.C. § 4248(d). The parties executed and filed a waiver of their rights to object to the M&R [D.E. 81]. For the reasons that follow, the court adopts the findings and recommendations of the magistrate judge.

In reviewing the M&R, the court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Because the parties have waived their right to object, the court reviews the magistrate judge’s findings and conclusions only for clear error, and need not give any explanation for adopting the M&R. See Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005); Camby v. Davis, 718 F.2d 198, 200 (4th Cir. 1983).

The court hereby ADOPTS the M&R as its own and FINDS, by clear and convincing evidence, that Frank is a sexually dangerous person within the meaning of 18 U.S.C. § 4247(a)(5) and (6) and that he knowingly and voluntarily consents to commitment under 18 U.S.C. § 4248.

The court ORDERS that Frank be committed to the custody of the United States Attorney General pursuant to 18 U.S.C. § 4248(d). The Clerk of Court is DIRECTED to close this case.

SO ORDERED. This 28 day of November 2011.


JAMES C. DEVER III
Chief United States District Judge